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DAN F. ARNETT
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177322

January 9, 2006

VIA HAND DELIVERY

Mr. Charles L.A. Terreni
Chief Clerk/Administrator
South Carolina Public Service Commission
101 Executive Center Dr., Suite 100
Columbia, SC 29210

RECEIVED
2006 JAN -9 AM 9:49
SC PUBLIC SERVICE
COMMISSION

Re: Application of Comtel Telecom Assets LP d/b/a VarTec Telecom, Clear Choice Communications, Excel Telecommunications and VarTec Solutions for a Certificate of Public Convenience and Necessity to Provide Interexchange and Local Exchange Telecommunications Services, for Flexible Regulatory Treatment, Alternative Regulation and for Approval to Acquire Certain Assets of VarTec Telecom, Incorporated, Excel Telecommunications, Incorporated and VarTec Solutions, Incorporated **Docket No. 2005-342-C**

Dear Mr. Terreni:

Enclosed for filing please find the original and ten (10) copies of the Settlement Agreement in the above referenced matter. Please date stamp the extra copy enclosed and return it to me in the envelope provided.

Thank you very much for your assistance. Please let me know if you have any questions.

Sincerely,

Nanette S. Edwards

Enclosures

cc: Ms. Becky Gibson
Mr. Jerry Ou

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 2005-342-C

January 6, 2006

IN RE:

**Application of Comtel Telcom Assets LP)
d/b/a Vartec Telecom, Clear Choice)
Communications and Vartec Solutions)
for a Certificate of Public Convenience)
and Necessity to Provide Local and)
Interexchange Telecommunications)
Services, for Flexible Regulatory)
Treatment, Alternative Regulation, and)
For Authority to Acquire Certain Assets)
of Vartec Telecom, Inc., Excel)
Telecommunications, Inc., and Vartec)
Solutions, Inc.)**

SETTLEMENT AGREEMENT

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This Settlement Agreement (“Settlement Agreement”) is made by and among the Office of Regulatory Staff (“ORS”) and Comtel Telcom Assests LP d/b/a Vartec Telecom, Clear Choice Communications, Excel Telecommunications and Vartec Solutions, (“Comtel” or “the Company”) and VarTec Telecom, Inc., Excel Telecommunications, Inc., and VarTec Solutions, Inc. (together, the VarTec Companies”) (collectively with Comtel and ORS referred to as the “Parties” or sometimes individually as “Party”);

WHEREAS, on October 20, 2005, Comtel filed its application requesting (i) a Certificate of Public Convenience and Necessity to provide local and interexchange telecommunications services; (ii) flexible regulation for its local exchange services

pursuant to Order No. 98-165 in Docket No. 97-467-C; (iii) alternative regulation for its long distance services in accordance with the procedures set out in Commission Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C as modified by Commission Order No. 2001-997 in Docket No. 2000-407-C; and (iv) approval of an asset transfer from Vartec to Comtel;

WHEREAS, on November 1, 2005, the Commission appointed David Butler, Esquire as the Hearing Examiner for this matter;

WHEREAS, on November 1, 2005, counsel for ORS entered a notice of appearance in this matter;

WHEREAS, on November 2, 2005, the Public Service Commission of South Carolina (the "Commission") issued a notice of hearing and set return dates for the hearing in the above captioned matter scheduled to be heard before a Hearing Examiner on January 9, 2006;

WHEREAS, on December 12, 2005, Comtel pre-filed testimony of Jerry Ou with the Commission;

WHEREAS, on December 13, 2005, Comtel filed a Motion to Hold Hearing by Videoconference and on December 14, 2005, the Hearing Examiner issued a Directive granting Comtel's motion with the proviso that if video conferencing equipment is available, the hearing will be held at the Commission's offices rather than the offices of Garber Reporting Service;

WHEREAS, the purpose of this proceeding was to review the application filed by Comtel and its request for a Certificate of Public Convenience and Necessity and to review Comtel's request for approval of an asset transfer;

WHEREAS, since the filing of the notice, ORS has conducted a review of the technical, managerial, and financial expertise of the Company to provide such services;

WHEREAS, ORS has reviewed the application and the financial data provided by the Company, and ORS has calculated certain performance ratios based upon information provided by the Company;

WHEREAS, ORS has investigated the services to be offered by Comtel and its intended customer service plans;

WHEREAS, ORS has reviewed the prefiled testimony of Jerry Ou and the description of the proposed asset transfer from Vartec Telecom, Inc., (a/k/a Excel Telecommunications, VarTec Solutions, Inc., and Clear Choice Communications) to Comtel;

WHEREAS, as a result of its investigations, ORS has determined a) Comtel intends to offer resold intrastate local and long distance telecommunications service on a statewide basis to both business and residential customers; b) the officers of Comtel possess sufficient technical and managerial abilities to adequately provide the services applied for; c) based upon the limited financial information provided and the analysis performed Comtel appears to have the financial resources necessary to provide the services proposed in its application; d) Comtel is adopting the existing Commission approved tariffs of the VarTec companies and existing Vartec/Excel customers will receive service under the same rates, terms and conditions from Comtel; e) the services provided by Comtel will meet the service standards required by the Commission; f) the provision of local services by the Company will not adversely impact the availability of affordable local exchange service; g) to the extent it is required to do so by the

Commission, Comtel will participate in the support of universally available telephone service at affordable rates; h) prior to offering a prepaid calling card service, Comtel shall, post a bond in such amount as required by the Commission Orders, rules and regulations; and i) the provision of local services by Comtel will not adversely impact the public interest;

WHEREAS, to ensure compliance with the Commission's statutes and regulations, the Parties have agreed to the following comprehensive settlement of all issues in this docket;

WHEREFORE, in the spirit of compromise, the Parties hereby stipulate and agree to the following terms and conditions:

1) The Parties agree to stipulate into the record before the Commission this Settlement Agreement. The Parties also agree to stipulate to the pre-filed testimony of Comtel Witness Jerry Ou who will be presented without cross-examination by ORS;

2) The Parties agree that the Company should be granted a Certificate of Public Convenience and Necessity to provide resold local and long distance services within the state of South Carolina;

3) ORS does not oppose the Company's request for waiver of 26 S.C. Code Ann. Regs. 103-610 (location of books and records), 103-631 (publication of directories), and any Commission rules or policies requiring a carrier to maintain its financial records in conformance with the Uniform System of Accounts ("USOA");

4) ORS does not oppose the Company's request that all of its telecommunications offerings be regulated as described in its application pursuant to the

procedures set out in Commission Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C as modified by Commission Order No. 2001-997 in Docket No. 2000-407-C;

5) ORS does not oppose the Company's request that the Commission allow it to employ a flexible local exchange rate structure as described in its application and as first authorized by the Commission in Order No. 98-165 in Docket No. 97-467-C;

6) Comtel agrees to resell the services of only those interexchange carriers or local exchange carriers authorized to do business in South Carolina by the Commission. Comtel agrees to notify ORS and the Commission, in writing, if the Company changes underlying carriers;

7) Comtel agrees that the Company will allow an end-user of resold services to access an alternative interexchange carrier or operator service provider if the end-user expresses such a desire;

8) The Company agrees to file necessary financial information with the Commission and ORS for universal service fund reporting, dual party, Interim LEC Fund, annual reporting and/or gross receipts reporting and to comply with the Commission Orders, rules and regulations related to these matters;

9) Prior to transfer of the customer accounts, Comtel agrees to provide a customer notice letter informing the VarTec Companies' customers of the transfer and their right to select another telecommunications provider. Comtel further agrees to provide the South Carolina Public Service Commission (the "Commission") and ORS with copies of the notice letter filed with the Federal Communications Commission and of any other correspondence filed with the FCC related to this transaction;

10) No later than thirty days after the close of the transaction, Comtel agrees to provide notice to the ORS and the Commission of the conclusion of the transaction and the VarTec Companies agree to request cancellation of the Vartec Companies' certificates of public convenience and necessity and cancellation of Vartec's tariffs;

11) Comtel agrees to comply with South Carolina Code Section § 58-9-300 entitled "Abandonment of Service." Additionally, Comtel agrees to adhere to the Federal Communication Commission rules 47 C.F.R. § 64.1190 and 64.1130 regarding preferred carrier freezes including the requirement that the form of the written authorization for the institution of the freeze be a separate or easily separable document. Prior to abandonment of service, Comtel shall remove any preferred carrier freeze so as to enable consumers to seamlessly transfer their telephone numbers to another provider;

12) The Company agrees to comply with Title 23, Chapter 47 of the South Carolina Code Annotated, which governs the establishment and implementation of a "Public Safety Communications Center" also known as "911 service." The Company agrees to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating prior to initiating local service in South Carolina and shall provide the 911 coordinator in each county and/or city with information regarding the Company's operations;

13) Comtel agrees to comply with all rules and regulations of the Commission unless the Commission has expressly waived such rule or regulation;

14) ORS does not object to Commission approval of the transfer of assets including customer accounts from Vartec to Comtel subject to the conditions enumerated in this Settlement Agreement;

15) ORS is charged by law with the duty to represent the public interest of South Carolina pursuant to S.C. Code § 58-4-10(B) (added by Act 175). S.C. Code § 58-4-10(B)(1) through (3) read in part as follows:

... 'public interest' means a balancing of the following:
(1) concerns of the using and consuming public with respect to public utility services, regardless of the class of customer;
(2) economic development and job attraction and retention in South Carolina; and
(3) preservation of the financial integrity of the State's public utilities and continued investment in and maintenance of utility facilities so as to provide reliable and high quality utility services.

ORS believes the Settlement Agreement reached among the Parties serves the public interest as defined above;

16) The Parties agree to advocate that the Commission accept and approve this Settlement Agreement in its entirety as a fair, reasonable and full resolution of all issues in the above-captioned proceeding and to take no action inconsistent with its adoption by the Commission. The Parties further agree to cooperate in good faith with one another in recommending to the Commission that this Settlement Agreement be accepted and approved by the Commission. The Parties agree to use reasonable efforts to defend and support any Commission order issued approving this Settlement Agreement and the terms and conditions contained herein;

17) The Parties agree that signing this Settlement Agreement will not constrain, inhibit, impair or prejudice their arguments or positions held in other collateral proceedings, nor will it constitute a precedent or evidence of acceptable practice in future proceedings. If the Commission declines to approve the Settlement Agreement in its

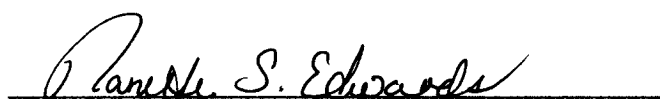
entirety, then any Party desiring to do so may withdraw from the Settlement Agreement in its entirety without penalty or obligation;

18) This Settlement Agreement shall be interpreted according to South Carolina law;

19) The above terms and conditions fully represent the agreement of the Parties hereto. Therefore, each Party acknowledges its consent and agreement to this Settlement Agreement by affixing its signature or by authorizing counsel to affix his or her signature to this document where indicated below. Counsel's signature represents his or her representation that his or her client has authorized the execution of the agreement. Facsimile signatures and email signatures shall be as effective as original signatures to bind any party. This document may be signed in counterparts, with the original signature pages combined with the body of the document constituting an original and provable copy of this Settlement Agreement. The Parties agree that in the event any Party should fail to indicate its consent to this Settlement Agreement and the terms contained herein, then this Settlement Agreement shall be null and void and will not be binding on any Party.

WE AGREE:

Representing the Office of Regulatory Staff

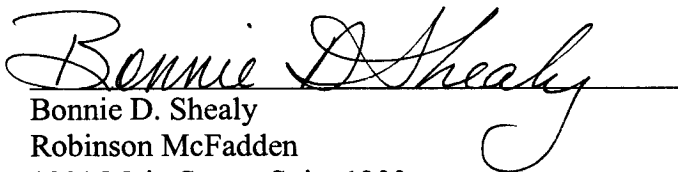


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WE AGREE:

**Representing Comtel Telecom Assets LP; VarTec Telecom, Inc.,
Excel Telecommunications, Inc.; and VarTec Solutions, Inc.**



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